

**YAVAPAI COUNTY
ADULT PROBATION DEPARTMENT**

FILED
12:14 O'Clock P.M.
NOV 18 2011
SANDRA K. MARKHAM, Clerk
By: *Becky Hamilton*

Superior Court – Prescott, Arizona

Cause No. V1300CR201080049

Prosecuting Attorney: Sheila Sullivan Polk

**Division Pro Tem B
Judge Warren R. Darrow**

Defense Attorney: Thomas K. Kelly (retained)

Sentencing: 09/26/11

DEFENDANT'S NAME: JAMES ARTHUR RAY

OFFENSE:

An Indictment was filed on February 3, 2010.

On June 22, 2011, pursuant to a Jury Trial in Yavapai County Superior Court, the defendant was found guilty of:

Count I: Negligent Homicide (Kirby Brown), committed on or about October 8, 2009, in violation of A.R.S. §13-1102, a class 4 felony.

Count II: Negligent Homicide (Elizabeth Neuman), committed on or about between October 8 and October 17, 2009, in violation of A.R.S. §13-1102, a class 4 felony.

Count III: Negligent Homicide (James Shore), committed on or about October 8, 2009, in violation of A.R.S. §13-1102, a class 4 felony.

OFFICER'S VERSION

This was a jury trial; please refer to official court transcripts.

DEFENDANT'S STATEMENT

The defendant stated that, acting on the advice of his attorney, he is reserving the right to submit a formal statement to the Court at a later date.

VICTIM'S COMMENTS AND RESTITUTION

Victim James Shore

This officer spoke to Mr. Christopher Shore, brother of James Shore, on July 12, 2011. Mr. Shore informed that he did not wish to provide any comments and that his mother and sister would be speaking on behalf of the Shore family.

This officer spoke to Jane Shore, mother of James Shore, on July 12, 2011. Mrs. Shore stated that this event has changed her life and her whole family's lives. She advised this is the second son she has lost and that this is the most devastating thing that has ever happened in her life. In addition, Mrs. Shore has provided a written letter which is attached to the presentence report.

This officer spoke to Alyssa Gillespie, wife of James Shore, on July 12, 2011. Ms. Gillespie provided the following statements.

I could go on for hours about how this has impacted me and my family. Dragging my children across the country, back and forth to Arizona, to the horrors of sitting through a trial, as well as the horrible event of the death of my husband, has been terribly upsetting. It has been especially disturbing to see how Mr. Ray reacted. It bothers me that Mr. Ray has never said he was sorry. He said it was a tragic accident. Accident or not, it happened on his watch. We, as a family, want to believe that it was an accident, but how we were treated as a family, how we had to find out about my husband's death, was atrocious and inhumane. Mr. Ray has never seemed to get it. We, as a family, believe that Mr. Ray is dangerous for exactly the reasons of what happened.

This officer attempted to contact Virginia Shore, sister of James Shore, and Tom Hardart, brother-in-law to James Shore, by telephone, on July 12, 2011. Mr. Hardart replied by e-mail on July 13, 2011 and informed that he and his wife, Virginia Shore, would not be submitting any statements.

This officer received a written letter from Matt Collins, friend of James Shore. The letter is attached to the presentence report.

Victim Lizbeth Neuman

This officer received e-mail correspondence or written statements from the following family members of Lizbeth Neuman; Andrea Puckett, daughter; Brett Neuman, son; Bryan Neuman, son; Randall Neuman, ex-husband, and Lilly Clark, cousin. All of the statements received are attached to the presentence report.

This officer spoke to Sara Oldre, sister of Lizbeth Neuman, on July 12, 2011. Ms. Oldre provided the following comments.

How we, as a family, learned about this whole thing was horrible. Mr. Ray made no attempts to follow and check on other people who were taken to the hospital. He made statements that he will continue to operate sweat lodges. I am afraid that he will continue to operate sweat lodges if allowed to do so, and that other people will get hurt. He has taken no responsibility for what happened and I don't think he has shown any remorse. This tells me he will do it again. I would like to see him get the full sentence of what he can possibly get.

In addition, Ms. Oldre provided a written letter which is attached to the presentence report.

This officer spoke to Sharon Moody, cousin of Lizbeth Neuman, on July 12, 2011. Mrs. Moody stated that she finds the whole thing very difficult to talk about and that it is difficult for her to even think about. She informed that she would try to provide a written statement; however, this officer has received no statement from Mrs. Moody at the time the presentence report was submitted.

This officer attempted to contact, by telephone, Kurt Galle, brother of Lizbeth Neuman, on July 13, 2011. A voice message was left asking for a return call. Additionally, an e-mail message was sent to Mr. Galle on July 13, 2011. A presentence victim notification letter was mailed out to Mr. Galle on July 8, 2011. There has not been any contact with Mr. Galle at the time the presentence report was submitted.

Victim Kirby Brown

This officer spoke to, received e-mail correspondence, or written statements from the following family members of Kirby Brown: George and Virginia Brown, parents; Robert Brown, brother; Katherine Brown Holmes, sister; Jean Brown Allison, sister; Michael Allison, brother-in-law; Kay and Aldo Magnanini, aunt and uncle; Jim and

Suzanne Magnanini, cousins; Mary Bemier, cousin; Frank Kirby, uncle; Jerelyn and Bill Brown, aunt and uncle; James Kelly, cousin; Genevive Malgrave, cousin; Joan Brown Kelly, aunt; Tom McFeeley, cousin; and Garrett Chelius. All of the statements received are attached to the presentence report.

In addition to providing a written statement, Mr. George Brown, father, advised that he also desires to speak to the Court directly, at the time of sentencing.

This officer spoke with Mr. Tom McFeeley, cousin of Kirby Brown, on July 13, 2011. Mr. McFeeley provided the following comments.

I am a former journalist and court reporter. When I learned of Kirby's death, I went to stay with her parents for over a month to assist them any way I could, which, in turn, helped me deal with the situation. I researched the case, followed the trial, read police reports. You can certainly view this as manslaughter or a homicide. It is true that no gun or knife was used but the unusual weapon of heat. This type of thing does not happen frequently but it does happen in an unregulated industry, the self-help industry. It is a case of a leader abusing power through physical teachings to teach self-improvement and by convincing people to make decisions they would not normally do. Those leaders need to be responsible. Mr. Ray used his intellect and talent of persuasion as a weapon. I would like to see the court make a strong sentence. An incarceration period of five or less years is not going to make much of a statement to others remaining in the self-help industry. The loss of Kirby Brown is profound in that she touched thousands of lives and actually saved the lives of six people. The passing of Kirby Brown is a great loss to the world.

Mr. McFeeley has also provided a written statement which is attached to the presentence report.

This officer spoke to Robert Magnanini, cousin to Kirby Brown, on July 12, 2011. Mr. Magnanini informed that he would provide a written statement; however, this officer had not received a statement at the time the presentence report was submitted.

This officer received a telephone voice message from Joe Kirby, uncle, stating the following.

If you go to a spiritual awakening and you're paying money for it, you should not die during that weekend. To me, something went terribly

wrong. The fact that they had another incident before this, in a sweat lodge, where people expired and had difficulties, tells me they did not take care of business and were very careless. It doesn't take a rocket scientist to figure out something went wrong and someone needs to be held accountable for it.

Presentence victim notification letters were mailed out to the following family members; however, there has been no contact with: Kristin Kirby, Nicki Kirby, Lisa Kirby, Matt Kirby, Jeremy and Alleson Chelius, Anne and Gary Chelius, aunt and uncle.

This officer received letters from the following friends of Kirby Brown: Stanley and Deborah Goldstein, Bill Dahly, Maria Falconetti, Mary Lavado, Sheila Ross Mihevc, Robyn Sills, Mary Ellen Quinn, Mika Cutler, Samantha Etesse, Eric Werbalowsky, Reverend Lawrence E. Hinch, Liz and Edward Holst and Carl Gustavson. The letters are attached to the presentence report.

A Preliminary Summary of Victim Financial Losses statement is attached to the presentence report.

County Attorney Sheila Sullivan Polk advised that the State will supplement the restitution information by filing a pleading directly with the Court.

Pursuant to A.R.S. § 31-230, the Arizona Department of Corrections is authorized to withdraw a minimum of 20% of monies available in the prisoner's spendable account each month, to pay towards court-ordered restitution until paid in full or defendant is released. If this defendant is sentenced to the Arizona Department of Corrections, we ask that the Court order the defendant's restitution be paid pursuant to this statute.

STATEMENT OF INTERESTED PARTIES

The State of Arizona, through County Attorney Sheila Sullivan Polk, informed that she will be filing a Sentencing Memorandum. For the purpose of the presentence report, County Attorney Polk stated that three people died and their deaths were entirely preventable. She continued by saying that the State is recommending the maximum prison sentence for each count.

The defendant's attorney, Thomas K. Kelly, will provide his comments directly to the Court at the time of sentencing.

RISK/NEED ASSESSMENT:

Based on the Offender Screening Tool (OST), the following is an assessment of the defendant's risk to re-offend and criminogenic needs. Domains that do not contribute to the overall assessed Risk/Need level do not require intervention. Domains that may contribute to the overall assessed Risk/Need level may require intervention. Domains that significantly contribute to the overall assessed Risk/Need level must be addressed when developing supervision strategies. The OST is a standardized, statewide, validated tool approved by the Administrative Office of the Courts (AOC).

RISK LEVEL: Medium-Low Risk

**DOMAINS THAT DO NOT CONTRIBUTE TO OVERALL RISK TO REOFFEND OR
CRIMINOGENIC NEEDS LEVEL**

DOMAIN	SUMMARY
* The Physical/Medical Health category has been identified as a responsivity factor and is not shown to impact risk level *	
Physical Health/ Medical Health *	<ul style="list-style-type: none">• Mr. Ray informed that he suffers from hypertension and a low thyroid condition.• He is prescribed, and taking, the medications Diovan, 80 mgs for high blood pressure and 2 grams of Armour for the thyroid condition.• Reported that he is in overall good health, that he is careful with his diet and gets plenty of exercise.
Education	<ul style="list-style-type: none">• Mr. Ray informed that he attended two high schools.• He first attended South Charlotte High School in West Virginia, followed by Webster High School in Tulsa, Oklahoma, from which he graduated in 1976.• Did not participate in any special education or remedial classes.• Never suspended or expelled from school.• Obtained Associates of Arts Degree in Business from Tulsa Junior College.• Attended night school at Tulsa University and National Louis University in Atlanta, Georgia, and is approximately five credits short of his Bachelor of Science degree.

**Family and Social
Relationships**

- The defendant was born on November 24, 1957 in Honolulu, Hawaii to Joyce and Arthur Gordon Ray.
- He is the older of two sons born to this union, having a younger brother, Jon Ray, age 49, who is currently residing in Missouri.
- The defendant informed that his father, now age 77 and retired, was a Protestant minister with the Church of God for most of his life.
- His mother was a homemaker until her sons got out of high school. She later worked in data processing management for American Airlines.
- As his father was a minister, his family moved around some.
- Participated in the church choir and youth group.
- Mr. Ray stated that when he was growing up, he did not always agree with his family's very stringent Christian values and rules.
- Stated, "I was raised so strict that you believed everything was a sin."
- However, when he matured into adulthood, he understood more, and was thankful and appreciative, for his upbringing.
- All of his material needs were met.
- Did not witness, or experience, any type of abuse.
- Stated, "I had a great childhood. I come from a good family. I have great parents."
- Reports having a very close, loving, and supportive relationship with all of his family members and said that his brother is his best friend.
- Informed that his family members have traveled great distances to be at the majority of his court appearances.
- Moved out of the family home into an apartment, with his brother, in his early twenties.
- At the age of 26, Mr. Ray married 28-year-old Mary Ellen McLein.
- There were no children born to this union and the couple divorced two years later.
- Mr. Ray advised that he began having premarital relations with Ms. McLein, which he was taught was a sin, so he believed the correct thing to do was to get married.
- He said that Ms. McLein was a wonderful woman, but they

		<p>both soon learned after their marriage that they did not have a lot in common and quickly grew apart.</p> <ul style="list-style-type: none">• For the last three years, the defendant has been in a relationship with 32-year-old Nataliya Katsalp.• Ms. Katsalp originally came from the Ukraine, works as a financial analyst, and became a United States citizen.• Advised that they are in love with each other but have no immediate plans for marriage.• Stated Ms. Katsalp is very supportive of him and has "been my anchor."
Residence/ Neighborhood		<ul style="list-style-type: none">• The defendant reported that he is currently residing in West Beverly Hills, California.• Reported that he has been at his current residence since March of 2009.• Reported that he has resided in California since 1995.• Informed that he has moved one time in the last year, not counting the condo he rented in Prescott, Arizona for five months, which he used while attending court proceedings.• Advised that he recently received a foreclosure notice in the mail for his California home, as he has not been able to make his monthly payments for the last six months.• Informed that if he eventually loses his home, he would move in with his parents who reside in Oceanside, California.• If granted probation, Mr. Ray would request that he be allowed to transfer the probation to the State of California.
Alcohol		<ul style="list-style-type: none">• The defendant informed that he first used alcohol at the age of 28.• Stated he came from a strict, religious family and drinking alcohol was not accepted.• On average, consumes one or two glasses of red wine on weekends.• Stated, "I am a lightweight and I do not drink often."• Advised that he did use alcohol a little more frequently after his divorce, which was years ago.• Informed that he has been intoxicated perhaps 15 times in his life.

	<ul style="list-style-type: none">• No alcohol- related arrests.• Does not believe that he has a problem with alcohol or is in need of alcohol treatment.
Drug Abuse	<ul style="list-style-type: none">• Mr. Ray informed that he smoked marijuana on two occasions when he was 28 years old.• Stated he did not enjoy the experience either time and never smoked marijuana again.• Denied any other use or experimentation with illegal drugs.• No drug-related arrests.

**DOMAINS THAT MAY CONTRIBUTE TO OVERALL RISK TO REOFFEND OR
CRIMINOGENIC NEEDS LEVEL**

DOMAIN	SUMMARY
Vocational/Financial	<ul style="list-style-type: none">• The defendant has been self-employed since 1992, running his own business, James Ray International.• In addition to writing books, making CDs and tapes, the defendant also held seminars and events such as the "Spiritual Warrior", where people participated in sweat lodge ceremonies.• Mr. Ray informed that up until his arrest in February of 2010, his business was profitable and he made approximately \$300,000 per year.• Stated that up until his arrest in 2010, he had impeccable credit but that the charges brought against him and the following court proceedings have "floored me financially."• Advised that he is struggling financially, ran out of money last year, has bad credit, and has not been able to pay his mortgage in six months or his attorney fees.• Mr. Ray provided a financial statement indicating he has an outstanding credit card balance of \$200,000.• Informed that he recently received a foreclosure notice.• Stated that if he does lose his residence, he can move in with his parents.• Prior to starting his own business, he was employed at AT&T as a Management Trainer for the AT&T School of Business.

		<ul style="list-style-type: none">• Was employed at AT&T for approximately 15 years; it was his first real job while attending college and after.
Mental Health		<ul style="list-style-type: none">• Mr. Ray has never received the services of a mental health professional for any emotional or mental disorders nor been prescribed medications for such.• Advised that over the course of the last one-and-a-half years, he has experienced a lot of stress, depression and anxiety.• Stated that when he needs to talk with someone, "I speak with my father, because who better to speak to than a minister."• He also relies on his other family members, as well as a friend, who is a "Zen master".• He actively works out at a gym several days a week and practices meditation to help relieve the depression, stress, and anxiety he has been feeling over his troubles.• Informed that he has never had suicidal thoughts and does not have any current feelings of self harm.
Attitude		<ul style="list-style-type: none">• Verbalized extreme remorse.• Stated, "This is horribly tragic"; "I have been holding these events for years. I warn people in advance. I could never have imagined that this type of thing would happen."• Stated, "I am so sorry for the victims and everyone involved in this case. I would love to speak to the victims personally and express how sorry I am. However, I have not been allowed to contact the victims, nor would it have been appropriate for me to do so at an earlier time."• When asked if he had any responsibility in these matters, he replied, "Yes, I have some responsibility; I ran the lodge, it was my event. I will never again do a sweat lodge or any potentially dangerous activity."• Advised that he was shocked and disappointed at the jury's verdict.• Mr. Ray did not feel comfortable commenting on whether or not justice is being served.• When asked whether or not safety precautions were taken into consideration prior to the sweat lodge ceremony beginning, Mr. Ray informed he did not feel comfortable

	<p>responding to the question.</p> <ul style="list-style-type: none">• Advised that he believes police officers and law enforcement are extremely important in society.• When asked if he was cooperative with law enforcement during the investigation, he replied, "The misconception of me not being cooperative with law enforcement is not true. I had one brief conversation with a detective. I was told immediately that the case was being investigated as homicides. I was told that my room was seized. I freaked out and got on the phone with my attorney. My attorney advised me not to answer any questions and to meet him the following day in California and that is what I did."• When asked what he felt should happen, Mr. Ray replied, "I hope that I am put on probation so that I can try to rebuild my life. I am no threat to society. I have spent a lifetime trying to help people improve their lives. I obey the laws and try to be a good citizen. I have always believed that if you do your best and obey the laws, good things will follow."
Criminal Behavior	<ul style="list-style-type: none">• Does not appear to have any prior criminal history.• First arrest came at the age of 51.• Pending offenses are felonies.• Pending offenses are very serious in nature.

**NO DOMAINS SIGNIFICANTLY CONTRIBUTE TO OVERALL RISK TO REOFFEND OR
CRIMINOGENIC NEEDS LEVEL**

RECOMMENDED FEE ASSESSMENTS / REIMBURSABLE COSTS

Based on the defendant's current ability to pay, the following assessments are recommended:

Monthly Probation Service Fee: \$ 75.00
Court-Appointed Attorney Fee: \$ retained
Out-of-State Transfer Fee: \$ 300.00

Public Defender \$25

Assessment Fee:

Ordered: ☐ Yes ☒ No

Paid: ☐ Yes ☐ No

MISCELLANEOUS INFORMATION

This offense appears to fall under the sentencing guidelines of A.R.S. §13-901.01
as a: ☐ First Offense ☐ Second Offense ☒ Not Applicable

IMPRESSIONS

James Arthur Ray is a 53-year-old man before the Court for sentencing on three charges of Negligent Homicide, after being found guilty of those charges by a jury trial.

Mr. Ray does not appear to have any prior criminal history.

This officer has spoken to the defendant James Arthur Ray and has gone over the police reports in this case numerous times, as well as a great quantity of court documents and witness statements. What this officer was able to determine was that Mr. Ray held a five-day seminar titled "Spiritual Warrior", which included fasting, and "Vision Quest" for some, and concluded with participants taking part in a sweat lodge ceremony. Pursuant to the reports, over 50 people participated in the sweat lodge ceremony, which apparently lasted over two hours in intense heat. When Mr. Ray was advised by some of the participants that there might have been some problems with some of the people inside the lodge and that some of them had passed out, he advised that they would be fine. It was mentioned several times that Mr. Ray told participants that although they might feel like they were going to die inside the sweat lodge, they would not. When reading over the investigative reports, this officer noted there was no mention of any emergency precautions in place, in case something went awry. There was no ambulance, doctor or appropriate medical personnel on hand to treat any medical problems or emergencies. No specific medical warnings were given nor was medical information asked of the victims, to determine if they were healthy enough to participate in the event. When the sweat lodge ceremony was completed, several people were ill, and two people, Kirby Brown and James Shore, had passed away and a third, Lizabeth Neuman, died several days later in a Flagstaff hospital.

During the presentence interview, Mr. Ray was polite, friendly and mostly accommodating in answering this officer's questions. He did not feel comfortable answering some of the questions posed to him. During the course of the interview, Mr. Ray verbalized a great deal of remorse for what happened and for the deaths of three people, which he described as "horribly tragic." When asked if he was responsible for anything that happened, Mr. Ray stated, "Yes, I have some responsibility. I ran the lodge, it was my event." When asked if his conviction made him think hard about making changes in his life, he replied, "Yes, absolutely. I will never again do a sweat lodge or

any potentially dangerous activities." When Mr. Ray was asked what he believed should happen as a consequence for what happened, he said, "I hope that I will be put on probation and given a chance to rebuild my life, I am no threat to society and I have spent a lifetime trying to help people. I obey the laws and try to be a good citizen. I couldn't imagine this would happen."

This case is tragic. Three people have died and numerous people have been affected by the loss. While it does not appear that Mr. Ray's actions were intentional, this officer would suggest that he does need to be held responsible for the deaths of three individuals. His actions appear to this officer to be reckless, dangerous, and negligent, and he should be held accountable. As Mr. Ray stated, "I ran the lodge, it was my event." The victims' families have been impacted in an unimaginable way. Their thoughts and feelings need to be strongly considered at sentencing, as well as the sentencing recommendations of the State.

Submitted to Judge Warren R. Darrow
this 15 day of September 2011.

Billie Grobe
Chief Adult Probation Officer

By: Michael L. Rygiel
Michael L. Rygiel
Senior Adult Probation Officer

APPROVED BY:

John Morris
John Morris, Adult Probation Supervisor
Presentence Unit

MLR/bbh